



UNITED STATES DEPARTMENT OF COMMERCE
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**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Nancy Chang
Application No. 06/659,339
Filed: October 10, 1984
Attorney Docket No. CTR84-7

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: ON PETITION
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This is a decision on the petition under 37 CFR 1.181(a)(2) and (3), filed October 27, 1997, requesting that the Commissioner *in personam*, (1) consider the instant petition, and (2) review the decision of August 25, 1997 which denied petitioner's request under 37 CFR 1.182 to amend the above-identified abandoned application by insertion of a reference to the pre-filing date deposit of a recombinant phage clone, Δ BH-10, asserted to harbor HTLV-III DNA.

The petition is **DENIED**.

Petitioner's request that the Commissioner personally consider the instant petition is denied. Decisions on petitions submitted under 37 CFR 1.181, and 37 CFR 1.182, have been delegated to the Office of Petitions and the Special Program Law Office in the Office of the Deputy Assistant Commissioner for Patent Policy and Projects. MPEP 1002.02(b), ¶ 3, ¶ 12, respectively.

A party to a proceeding in the Patent and Trademark Office has a right to petition, and may expect to receive a decision by either the Office official delegated authority to render the decision, or the delegating official. See In re Arnott, 19 USPQ2d 1049, 1052 (Comm'r Pat. 1991). While a higher level official, at the request of the party, may further review a decision rendered pursuant to delegated authority, such review is a matter which lies within the sound discretion of that higher level official, and is not a matter of right. Id.

Rather, a decision rendered pursuant to delegated authority will not be reviewed by a higher level official except in unusual or exceptional circumstances. See In re Staeger, 189 USPQ 284 (Comm'r Pat. 1984). That petitioner does not agree with the decision of August 25, 1997 does not adequately demonstrate that

such unusual or exceptional circumstances are present herein. Id. at 285. Inspection of the instant petition fails to reveal a showing of such unusual or exceptional circumstances that would justify review by the Commissioner in light of the principles discussed above.

Nevertheless, the petition is granted to the extent that the decision of August 25, 1997 has been reviewed, but is denied with respect to making any change therein.

This abandoned file is being returned to the Files Repository.

Telephone inquires related to this decision should be directed to Special Projects Examiner Brian Hearn at (703) 305-1820.

A handwritten signature in cursive script, reading "Stephen G. Kunin".

Stephen G. Kunin
Deputy Assistant Commissioner for
Patent Policy and Projects

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